

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CASE NO. 5:13-CV-00527-F

U.S. TOBACCO COOPERATIVE INC.; )  
U.S. FLUE-CURED TOBACCO )  
GROWERS, INC.; and BIG SOUTH )  
DISTRIBUTION, LLC, )

Plaintiffs, )

v. )

**MOTION FOR LEAVE  
TO INTERVENE**

BIG SOUTH WHOLESALE OF )  
VIRGINIA, LLC d/b/a BIG SKY )  
INTERNATIONAL; BIG SOUTH )  
WHOLESALE, LLC; UNIVERSAL )  
SERVICES FIRST CONSULTING )  
A/K/A UNIVERSAL SERVICES )  
CONSULTING GROUP; JASON )  
CARPENTER; CHRISTOPHER )  
SMALL; EMORY STEPHEN DANIEL; )  
ALBERT JOHNSON, and other )  
unnamed coconspirators, )

Defendants. )

Matthew Apuzzo, a reporter for *The New York Times*, respectfully moves this Court, pursuant to Rule 24 of the Federal Rules of Civil Procedure, for leave to intervene in this proceeding for the limited purpose of asserting and protecting his and the people's presumptive right of access to judicial documents and proceedings, as conferred by the First Amendment to the Constitution of the United States; Article I, §§ 14, 18 and 24 of the North Carolina Constitution; and common law. Specifically, movant seeks to intervene so that he may support Plaintiff's Motion to Unseal [Docket No. 520] on the grounds that there is no compelling need for the

sealing sufficient to overcome the movant's and the public's presumptive right of access to judicial pleadings. In support of this Motion to Intervene, the movant shows the following:

1. Matthew Apuzzo is a resident of Washington, D.C. and is employed by The New York Times Company. Mr. Apuzzo is a reporter for *The New York Times* ("The Times"). Mr. Apuzzo regularly reports on federal law enforcement and national security matters.

2. The movant has no legal interest in the merits or outcome of this case and wishes to intervene solely for the purpose of protecting his rights and the rights of the public, pursuant to the United States Constitution to attend judicial proceedings and inspect and copy any attendant documents.

3. "[R]epresentatives of the press and the general public must be given an opportunity to be heard on the question of their exclusion." *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 609 n. 25, 102 S. Ct. 2613, 73 L. Ed.2d 248 (1982). A motion for leave to intervene is a proper (though not the only) vehicle for a member of the public to assert its interests and seek judicial redress. *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 252 (4th Cir. 1988). "[N]on-parties must be permitted to intervene for the purpose of challenging any restrictions on the First Amendment right of access." *Perry v. City & Cnty. of San Francisco*, 10-16696, 2011 WL 2419868 (9th Cir. 2011). *See also In re Associated Press*, 162 F.3d 503, 508 (7th Cir.1998) ("the Press ought to have been able to intervene in order to present arguments against limitations on the constitutional or common law right of access").

"The right of public access is 'a right that any member of the public can assert,' whether it is for the purpose of reporting on a trial as it unfolds or researching jury selection ten years later." *In re Jury Questionnaires*, 37 A.3d 879, 884 (D.C. Cir. 2012).

4. Permitting the movant to intervene will allow him to protect the public's interest in access to judicial records and attending judicial proceedings.

5. Movant has been denied access to the judicial pleadings.

WHEREFORE, the Movant respectfully moves the Court to permit his intervention and to permit him to file a brief in support of the pending Motion to Unseal records that previously have been sealed in this cause.

Respectfully submitted this the 1<sup>st</sup> day of September, 2016.

/s/ C. Amanda Martin

C. Amanda Martin

N.C. State Bar No. 21186

STEVENS MARTIN VAUGHN & TADYCH, PLLC

1101 Haynes Street, Suite 100

Raleigh, NC 27604

Telephone: 919-582-2300

Facsimile: 866-593-7695

Email: amartin@smvt.com

## CERTIFICATE OF SERVICE

I hereby certify that on this 1<sup>st</sup> day of September, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of Court using the CM/ECF system addressed to the following counsel:

Thomas A. Farr  
Michael Douglas McKnight  
Kimberly Joyce Lehman  
4208 Six Forks Road, Suite 11 00  
Raleigh, NC 27609  
thomas.farr@ogletreedeakins.com  
michael.mcknight@ogletreedeakins.com  
kimberly.lehman@ogletreedeakins.com

L. Gray Geddie  
The Ogletree Building  
300 North Main Street, Suite 500  
Greenville, SC 29601  
gray.geddie@ogletreedeakins.com

Amy M. Pocklington  
Tevis Marshall  
Riverfront Plaza West Tower  
901 East Byrd Street, Suite 1300  
Richmond, VA 23219  
amy.pocklington@ogletreedeakins.com  
tevis.marshall@ogletreedeakins.com

Kathryn H. Ruemmler  
Allen M. Gardner  
Kevin A. Chambers  
Brian A. Lichter  
Latham & Watkins LLP  
555 11th St., NW, Suite 1000  
Washington, DC 20004  
kathryn.ruemmler@lw.com  
allen.gardner@lw.com  
kevin.chambers@lw.com  
brian.lichter@lw.com

Gavin B. Parsons, Esquire  
Troutman Sanders LLP  
P.O. Box 1389  
Raleigh, NC 27602-1389  
gavin.parsons@troutmansanders.com

Gary S. Parsons, Esquire  
W. Michael Dowling  
Brooks, Pierce, McLendon, Humphrey &  
Leonard, L.L.P.  
1600 Wells Fargo Capitol Center  
150 Fayetteville Street  
Raleigh, North Carolina 27601  
gparsons@brookspierce.com  
mdowling@brookspierce.com

Alan D Mathis, Esquire  
Butler Snow LLP  
One Federal Place, Suite 1000  
1819 Fifth Avenue North  
Birmingham, AL 35203  
Alan.mathis@butlersnow.com

W. Sidney Aldridge, Esquire  
Nicholls & Crampton, P.A.  
3700 Glenwood Ave., Suite 500  
P.O. Box 18237  
Raleigh, NC 27612  
wsaldridge@nichollscrampton.com

Elliot S. Abrams  
Cheshire Parker Schneider & Bryan,  
PLLC  
133 Fayetteville Street, Suite 500  
(27601)  
P.O. Box 1029  
Raleigh, NC 27602  
[elliott.abrams@cheshirepark.com](mailto:elliott.abrams@cheshirepark.com)

Christopher T. Graebe, Esquire  
Graebe Hanna & Sullivan, PLLC  
4350 Lassiter at North Hills Avenue,  
Suite 375  
Raleigh, NC 27609  
[cgraebe@ghslawfirm.com](mailto:cgraebe@ghslawfirm.com)

Wynne P. Kelly, Esquire  
Special Attorney to the Attorney General  
Assistant United States Attorney for the  
District of Columbia  
555 4th Street N.W.  
Washington, D.C. 20530  
[wynne.kelly@usdoj.gov](mailto:wynne.kelly@usdoj.gov)

This 1<sup>st</sup> day of September, 2016.

/s/ C. Amanda Martin  
C. Amanda Martin  
NC State Bar No. 21186  
STEVENS MARTIN VAUGHN & TADYCH,  
PLLC  
1101 Haynes Street, Suite 100  
Raleigh, NC 27604  
Phone: 919-582-2300  
Facsimile: 866-593-7695  
Email: [amartin@smvt.com](mailto:amartin@smvt.com)